

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

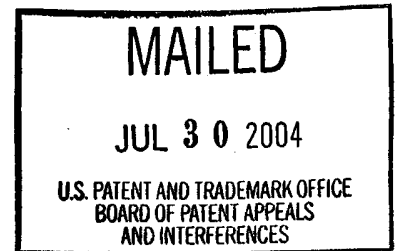
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIETER DOHRING

Appeal No. 2004-1717
Application 09/647,129

ON BRIEF



Before PAK, OWENS, and PAWLIKOWSKI, Administrative Patent Judges.
PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 1, 3 through 5, 7 and 8. Claims 9 through 11, the remaining claims in the present application, stand withdrawn from consideration by the examiner as being drawn to a non-elected invention.

APPEALED SUBJECT MATTER

The subject matter on appeal is directed to a method of producing wear-resistant laminate flooring materials. Further details of the appealed subject matter are recited in representative claims 1 and 5, which are reproduced below:

1. A method of impregnating paper used for the production of wear-resistant laminate flooring material comprising:

- a) taking paper;
- b) damping and impregnating said paper with an amino resin by the use of metering rollers; and
- c) additionally spraying onto said damped wet paper an additional layer of amino resin in a dispersion containing an abrasive substance and a flow-promoting agent; and

wherein the final area density relative to the dry mass of raw paper amounts to 100% to 250%; and wherein the dispersion comprises 100 parts of the amino resin, 20 to 95 parts of the abrasive substance, 0.5 to 2.5 parts of a silane adhesion promoter, 5 to 25 parts of a flow-promoting agent, 0.1 to 0.4 parts of a wetting agent, 0.05 to 0.4 parts of a separating agent and of an amino resin hardener.

5. A method of impregnating paper used for the production of wear-resistant laminate flooring material comprising:

- a) taking paper;
- b) damping and impregnating said paper with an amino resin by the use of metering rollers; and
- c) additionally spraying onto said damped wet paper an additional layer of amino resin in a dispersion containing an abrasive substance;

wherein the final area density relative to the dry mass of raw paper amounts to 100% to 250%; and wherein the abrasive

substance comprises at least one of aluminum oxide and silicon carbide having a mean particle size of 60 to 160 u-m; and wherein the dispersion comprises 100 parts of the amino resin, 20 to 95 parts of the abrasive substance, 0.5 to 2.5 parts to a silane adhesion promoter, 5 to 25 parts of a flow-promoting agent, 0.1 to 0.4 parts of a wetting agent, 0.05 to 0.4 parts of a separating agent and of an amino resin hardener.

PRIOR ART

The examiner relies on the following prior art references:

Hoover et al. (Hoover)	2,958,593	Nov. 1, 1960
Michl	3,135,643	Jun. 2, 1964
Lindgren et al. (Lindgren)	5,034,272	Jul. 23, 1991
O'Dell et al. (O'Dell)	5,344,704	Sep. 6, 1994

REJECTIONS

The appealed claims stand rejected as follows:

- (1) Claims 1, 3, 4 and 8 under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Michl, Hoover and O'Dell; and
- (2) Claims 5 and 7 under 35 U.S.C. § 103 as unpatentable over the combined disclosures of Michle, Hoover, O'Dell and Lindgren.

OPINION

We have carefully reviewed the claims, specification and applied prior art references, including all of the arguments advanced by both the examiner and the appellant in support of their respective positions. This review has led us to conclude

that the examiner's Sections 103 rejections are not well founded. Accordingly, we will not sustain the examiner's Section 103 rejections. Our reasons for this determination follow.

To establish obviousness under Section 103, there must be some teaching, suggestion or motivation to arrive at the claimed subject matter. *In re Rouffet*, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). When determining the patentability of a claimed invention which combines several elements, "the question is whether there is something in the prior art [references] as a whole to suggest the desirability, and thus the obviousness, of making the [claimed] combination." *In re Rouffett*, 149 F.3d at 1356, 47 USPQ2d at 1456.

Here, the examiner relies on Michl for teaching a method of making a wear-resistant laminate. See the Answer, page 3. According to the examiner (the Answer, pages 3 and 4), this method includes impregnating a print paper with an amino resin by the use of metering rollers and coating the resulting damped wet print paper with a knife coater using a composition comprising melamine resin, abrasive particles and a wet tack reducing aid. Recognizing that Michl does not teach, *inter alia*, the claimed spray coating technique, including the claimed coating dispersion containing a flow-promoting agent, the examiner relies on Hoover for teaching such spray coating technique and flow-promoting

agent. See the Answer, pages 4-5. The examiner relies on O'Dell and Lundgren to remedy other deficiencies in Michl, such as the absence of the claimed abrasive particles size, wetting agent and silane adhesion promoter. See the Answer, pages 5-8.

The dispositive question is, therefore, whether there is the requisite suggestion or motivation to employ the flow-promoting agent and spray coating technique described in Hoover in the laminate making method of the type described in Michl. On this record, we answer this question in the negative.

The whole purpose of Michl is to form decorative laminates for such applications as surfacing materials for sinks, tables, desks, appliances, etc... See column 1, lines 8-25. As acknowledged by the examiner at page 4 of the Answer, to serve this purpose, a coating must provide a high final area density. Hoover, on the other hand, is directed to a purpose different than that described in Michl, i.e., making a low density floor scouring material. See column 1, lines 15-42. Specifically, Hoover teaches spray coating a non-woven fibrous material with a dispersion containing, *inter alia*, a flow-promoting agent for the purpose of producing "non-woven fibrous abrasive articles of extremely open structure having an extremely high void volume (i.e., low density)" for floor scouring operations, e.g., "commercial stripping of old wax or the like from floor

surfaces". *Id.* Thus, on this record, we concur with the appellant that one of ordinary skill in the art would not have looked to the method of making floor scouring materials taught in Hoover to improve the method of making decorative laminates described in Michl. The examiner simply has not proffered sufficient evidence that the spray coating technique and flow-promoting agent useful for forming floor scouring materials (defined by extremely open structure having an extremely high void volume) are useful for forming the decorative laminate of the type described in Michl. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992) ("the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability").

In view of the foregoing, we are constrained to reverse the examiner's Section 103 rejections.

Appeal No. 2004-1717
Application No. 09/647,129

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


CHUNG K. PAK

CHUNG K. PAK
Administrative Patent Judge

TERRY J. OWENS
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

BEVERLY A. PAWLIKOWSKI
Administrative Patent Judge

CKP: dal

Appeal No. 2004-1717
Application No. 09/647,129

Don W Bulson
Renner Otto Boisselle & Sklar
1621 Euclid Avenue 19th Floor
Cleveland OH 44115